

Statement

Insurance Association of Connecticut

Judiciary Committee

March 4, 2011

**HB 6424, An Act Concerning Independent Medical Examinations
In Personal Injury Actions**

The Insurance Association of Connecticut supports HB 6424, An Act Concerning Independent Medical Examinations In Personal Injury Actions. HB 6424 amends the existing law which improperly permits a plaintiff to refuse, without reason, to submit to an independent medical examination conducted by a defendant's expert. Current law unfairly prejudices defendants and is incompatible with the original intent of the law.

As the law is currently enforced, plaintiffs are allowed to dictate when, where and how an independent medical exam is conducted. It also requires the courts unnecessary involvement in discovery. As the law is currently drafted, the court or judge may order a plaintiff to submit to a physical examination. Under the current system, plaintiffs have ultimate veto power over a defendant's choice of an expert witness and dictate who defendants are able to call as experts. The statute does not require plaintiffs to offer any reason for their objection. In fact, the court has routinely held that not only can the plaintiff object to the defendant's choice of expert, but can also force the defendant to choose, as its expert, an expert proposed by the plaintiff. (See Moore v. Minton, 4 Conn. Ops. 1221 (October 28, 1998)). This is inherently unfair and strikes at the heart of our adversarial system.

HB 6424 corrects the inequities of the current system. It would require a plaintiff to submit to an exam by a physician chosen by the defendant absent a showing of good cause. The good cause standard would require a plaintiff to demonstrate a substantial reason that affords a legal excuse. HB 6424 produces a fair result.

HB 6424 would also greatly reduce the delay and expense associated with plaintiff's objections to defendant's motions for independent medical examinations.